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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,256	06/14/2001	Naoshi Kikuchi	SOHSH13.001AUS	6635

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EXAMINER

NGUYEN, CHAU N

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 10/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,256

Applicant(s)

KIKUCHI ET AL.

Examiner

Chau N Nguyen

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "2A" and "2B". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi et al. (JP 11-329083).

Kikuchi et al. discloses the invention as claimed in claims 1-13, see the corresponding U.S. document (2001/0017219), page 2 through page 7.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being obvious over Kikuchi et al. (JP'083) in view of Munakata et al.

Kikuchi et al. discloses the invention as claimed except that the outermost members are comprised of a plurality of segments, wherein each segment is obtained by dividing the polygon at the vertexes, wherein each segment has an inner surface having a partially arc-shaped sectional shape configured to substantially follow the outer contour of a set of inner cable strands, and wherein each segment has an outer surface having a flat sectional shape connecting the adjoining vertexes, and wherein each segment has two corners of the flat outer surface formed to define each arc-shaped groove of the radius R and depth H together with the corners of the adjoining segments, and wherein the plurality of segments being arranged so that they adjoin each other so the corners of the adjoining segments form the arc-shaped grooves and to cover the outer circumference of the members positioned inside them and so that the plurality of

arc-shaped grooves circle the overhead cable in spirals in the longitudinal direction at a predetermined pitch.

Munakata et al. discloses an overhead cable comprising features as recited in claim 14. It would have been obvious to one skilled in the art to modify the overhead cable of Kikuchi et al. as taught by Munakata et al. to reduce the wind load.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-13 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/727,070. Although the conflicting claims are not

identical, they are not patentably distinct from each other because claim 6 of the copending application 09/727,070 recites the diameter (d), the number (N), the depth (H), and the radius (R) which all satisfy the formulas disclosed in the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claim 14 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/727,070 in view of Munakata et al.

Claim 6 of the copending application discloses the invention substantially as claimed except that the outermost members are comprised of a plurality of segments, each segment is obtained by dividing the polygon at the vertexes, has an inner surface having a partially arc-shaped, has an outer surface having a flat sectional shape connecting the adjoining vertexes, and has two corners of the flat outer surface formed to define each arc-shaped groove of the radius R and depth H together with the corners of the adjoining segments, and the plurality of segments being arranged so that they adjoin each other so the corners of the adjoining segments form the arc-shaped grooves and to cover the outer circumference of the

members positioned inside them and so that the plurality of arc-shaped grooves circle the overhead cable in spirals in the longitudinal direction at a predetermined pitch.

Munakata et al. discloses an overhead cable comprising features as recited in claim 14. It would have been obvious to one skilled in the art to modify the overhead cable of claim 6 of the copending application 09/727,070 as taught by Munakata et al. to reduce the wind load.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. In addition, the applicant stated in the remarks that the proposed drawing correction is attached with the amendment, however, such correction is not found with the amendment.

Summary

10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on Sept. 3rd 2002 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS**

ACTION IS MADE FINAL. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 308-0693. The examiner can normally be reached on Mon-Fri.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308 3682. The fax phone numbers for the organization where this application or proceeding is

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assigned are (703) 308 3431 for regular communications and (703) 305 1341 for
After Final communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is (703)
308-0956.

A handwritten signature in black ink, appearing to read 'Chau N Nguyen', with a long horizontal flourish extending to the right.

Chau N Nguyen
Primary Examiner
Art Unit 2831

CN
October 9, 2002